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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,057	12/04/2003	Timothy C. Ostwald	03-046-TAP (STK 03046)	8925
51344	7590	08/24/2006	PUS	
BROOKS KUSHMAN P.C. / STK 1000 TOWN CENTER, TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075-1238				
EXAMINER CASTRO, ANGEL A				
ART UNIT			PAPER NUMBER	
2627				
DATE MAILED: 08/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/728,057

Applicant(s)

OSTWALD ET AL.

Examiner

Angel A. Castro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 16-20 is/are rejected.
- 7) ☒ Claim(s) 9-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                                        | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mueller et al (U.S. Pat. 6,956,715).

Regarding claims 1, 2, 4, 17 and 18, Mueller et al discloses a storage library (figures 1-11) comprising:

a frame having an interior and a frame length;

a first storage library module 17 (figure 6, element 20) having a first set of media element holding cells 16, the first storage library module being mounted to the frame at a first position along the frame length, the frame supporting the first storage library module such that the first set of cells are positioned within the frame interior at the first frame length position and along the periphery of a channel extending within the frame interior through the frame length;

a second storage library module 17 (figure 1, element 21) having a second set of media element holding cells 16, the second storage library module being mountable to the frame at a second position along the frame length, the frame supporting the second storage library module when the second storage library module is mounted to the frame such that the second set of cells

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are positioned within the frame interior at the second frame length position and along the periphery of the channel;

a media element handling assembly 12 having a support 66 and a picker assembly 34, the support being connected to the frame at a third position along the frame length, the picker assembly being movably connected to the support (column 7, lines 15-19);

wherein the first and second storage library modules are void of media element handling assembly hardware for moving the picker assembly through the channel along the frame length;

wherein the picker assembly is operable for moving through the channel along the frame length in order to move toward the first frame length position and manipulate media elements held by the first set of cells, and to move toward the second frame length position and manipulate media elements held by the second set of cells when the second storage library module is mounted to the frame.

Regarding claim 3, Mueller et al shows a third storage library module having a media element player 18 (see figure 8) and being void of media element handling assembly hardware for moving the picker assembly through the channel along the frame length, the third storage library module being mountable to the frame beneath the top frame end at a third position along the frame length, the frame supporting the third storage library module when the third storage library module is mounted to the frame such that the media element player is positioned within the frame interior at the third frame length position and along the periphery of the channel; wherein the picker assembly is operable for moving through the channel in order to move toward the first and third frame length positions and load media elements held by the first set of cells into the media element player when the third storage library module is mounted to the frame.

Regarding claim 5, Mueller et al discloses that the first storage library module is void of media element handling assembly hardware for moving the picker assembly through the channel (see figure 8).

Regarding claims 6-8, 16 and 19-20, Mueller et al discloses a second storage library module having a second set of media element holding cells, the second storage library module being mountable to the frame beneath the top frame end at a second position along the frame length, the frame supporting the second storage library module when the second storage library is mounted to the frame such that the second set of cells are positioned within the frame interior at the second frame length position and along the periphery of the channel; wherein the picker assembly is operable for moving through the channel along the frame length between the top and bottom frame ends in order to move toward the second frame length position and manipulate media elements held by the second set of cells while being connected to the support when the second storage library module is mounted to the frame (see figure 5).

#### ***Allowable Subject Matter***

3. Claims 9-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angel A. Castro whose telephone number is 571-272-7584. The examiner can normally be reached on Monday through Thursday, 8 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink that reads "Angel Castro" followed by a stylized capital "C".

Angel Castro, Ph.D.